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TO: Flathead County Board of Commissioners

FROM: Mark Mussman, CFM, Director

DATE: September 29, 2020

RE: FPP-20-09—Baker 80 Subdivision

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At their regularly scheduled meeting on September 9, 2020, the Planning Board considered FPP-20-09, a preliminary plat request for Baker 80 Subdivision. This is a request for 16 lots on approximately 80 acres located on the west side of Highway 93 adjacent to the south of Whitefish Village Hills, Phase 4. The applicants initially requested access to the proposed new lots from Whitefish Village Drive to the proposed internal subdivision road. Whitefish Village Drive is a privately maintained road.

Currently, the property is accessed by Prairie View Road which is off KM Ranch Road. Prairie View Road is within a 60-foot dedicated right-of-way, but it is not currently improved to Road and Bridge Standards and it is only constructed to the southern border of the proposed subdivision. The staff report reviewed both the access proposed by the applicants through the Whitefish Village Hills Subdivision and the access via Prairie View Road and KM Ranch Road. The report the Planning Board reviewed included Findings of Fact and Conditions of Approval regarding both options to access the subdivision.

The Planning Board received comments from a representative of the Whitefish Village Hills subdivision, expressing strong opposition to allowing the proposed Baker 80 Subdivision to access the development through the private roads of Whitefish Village Hills.

After extensive legal review of the proposed access via Whitefish Village Drive, it now appears that using that private road is not available to access the proposed lots of the Baker 80 Subdivision. The sole access to the proposed Baker 80 Subdivision appears to be via Prairie View Road. Additionally, the legal review suggested that the staff report be modified to reflect the fact that Whitefish Village Drive does not appear to be available to access the proposed subdivision.

Attached to this memorandum is an addendum to the Staff Report reviewed by the Planning Board. The report outlines what is now the primary access, alters Finding of Fact #3 and Finding of Fact #16, and modifies Condition of Approval 21.

**STAFF REPORT ADDENDUM**  
**FPP-20-09**  
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**a. Roads**

Primary access to the subdivision was initially proposed to be from Whitefish Village Drive to the proposed internal subdivision road, Baker Heights Drive. Whitefish Village Drive is a privately maintained road which serves lots in the Whitefish Village Hills Subdivision. The road certification on the various phases of the Whitefish Village Hills plats states in part, "Whitefish Village Drive is intended to be private in all respects." Upon extensive legal review, it appears Whitefish Village Drive is not available to provide access to the proposed lots of the Baker 80 Subdivision. Primary and sole access to the proposed subdivision will be provided by Prairie View Road to the proposed internal subdivision road.

Primary access to the proposed subdivision ~~would~~ must be from Prairie View Road via KM Ranch Road. KM Ranch road is a paved, County-maintained road within a 60-foot wide right-of-way. Since Prairie View Road is an unpaved road, offsite improvements would be required per Section 4.7.17(g) FCSR in accordance with the standard improvement formula described in Section 4.7.17(h)(i)(ii). Based on the number of lots along this portion of Prairie View Road, the existing traffic count is approximately 70 ADT, thus 69.6% of this stretch of Prairie View Road would need to be paved. Staff calculated the offsite roadway improvement requirements from KM Ranch Road to the southern termination point of Baker Heights Drive, a distance of approximately 3,515 feet. The applicants would be required to pave 2,446 feet of Prairie View Road. ~~if primary access via Whitefish Village Drive is not granted.~~ The interior subdivision road will be constructed to Flathead County Road and Bridge standards, and the application did include a draft road user's agreement, outlining maintenance provisions for roadways within the subdivision.

The Flathead County Road and Bridge Department indicated no comments regarding the proposal. The applicant will be required to provide approach permits from the Flathead County Road and Bridge Department for the approaches onto Prairie View Road, prior to final plat approval.

~~Primary access to the subdivision is proposed from Whitefish Village Drive via Prairie View Road. Whitefish Village Drive is a paved, privately maintained road within a 60-foot wide right-of-way, lying within an adjacent subdivision. Prairie View Road is a gravel, County-maintained road within a 60-foot wide right-of-way, which is not constructed the entire length of the right-of-way and terminates adjacent to the subject properties, south of the intersection with Whitefish Village Drive. A new internal subdivision road, shown as "Baker Heights Drive" on the preliminary plat, is proposed off Prairie View Road to provide access to lots within the subdivision.~~

~~The application includes a draft road user's agreement outlining maintenance provisions for roadways within the subdivision. However, Section 4.7.15(d) FCSR~~

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~~states, “When a new subdivision adjoins un-subdivided land (lands or parcels not created by a filed subdivision plat) the subdivider may be required to provide rights-of-way or easements from proposed subdivision road easement to the adjacent un-subdivided property. Subsequent subdivisions using an existing subdivision road system as a primary access shall be required to pay a pro-rata share of road maintenance for the shared portion of the existing subdivision roads, and a latecomer’s agreement, if applicable [...]”~~ Comment received from the County Attorney’s Office indicates the applicant is required to obtain an easement or written permission from Whitefish Hills Village to access Whitefish Village Drive because preliminary plat approval for Whitefish Hills Village did not include a specific condition requiring the subdivision to provide a right-of-way or easement to adjoining properties. The applicant shall be required to submit a road maintenance mechanism which includes maintenance provisions for Whitefish Village Drive prior to final plat approval.

~~According to the Institute of Transportation Engineers (ITE) Trip Generation Manual, single-family dwellings typically generate approximately 10 average daily trips (ADT). The subdivision would create 16 residential lots and would therefore add approximately 160 ADT to Whitefish Village Drive. Since Whitefish Village Drive is the proposed primary access to the subdivision, an increase in traffic along Prairie View Road as a result of the subdivision is only anticipated to occur on the relatively small, isolated portion between Whitefish Village Drive and Baker Heights Drive.~~

~~The internal subdivision road will be constructed to the Flathead County Road and Bridge standards. Since Whitefish Village Drive is a paved road, no offsite roadway improvements would be required. However, if the applicants cannot provide proof of legal access and a road maintenance mechanism for Whitefish Village, primary access to the proposed subdivision would be from Prairie View Road via KM Ranch Road. KM Ranch road is a paved, County-maintained road within a 60-foot wide right-of-way. Since Prairie View Road is an unpaved road, offsite improvements would be required per Section 4.7.17(g) FCSR in accordance with the standard improvement formula described in Section 4.7.17(h)(i)(ii). Based on the number of lots along this portion of Prairie View Road, the existing traffic count is approximately 70 ADT, thus 69.6% of this stretch of Prairie View Road would need to be paved. Staff calculated the offsite roadway improvement requirements from KM Ranch Road to the southern termination point of Baker Heights Drive, a distance of approximately 3,515 feet. The applicants would be required to pave 2,446 feet of Prairie View Road if primary access via Whitefish Village Drive is not granted.~~

**Finding #3** – The road system appears to be acceptable with the imposition of conditions because the internal subdivision road would be paved and constructed to Flathead County Road and Bridge Department standards, the applicant would be required to improve, including paving, approximately 69.6% of Prairie View Road

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between KM Ranch Road and the southern termination point of Baker Heights Drive, ~~unless proof of legal access and a road maintenance mechanism for Whitefish Village Drive is provided, the proposed subdivision has the potential to increase traffic on Whitefish Village Drive by 160 ADT, and approach permits from the Flathead County Road and Bridge Department will be required for the approaches onto Prairie View Road.~~

**E. Provision of Legal and Physical Access to Each Parcel**

Primary access to the subdivision was initially proposed to be from Whitefish Village Drive, which is a privately maintained road within a 60-foot right-of-way, via Prairie View Road, which is a County maintained road within a 60-foot right-of-way. An internal subdivision road, Baker Heights Drive, is proposed that will provide access to the proposed lots. After extensive legal review, it appears that Whitefish Village Drive is not available to provide access to the proposed new lots. However, the proposed subdivision does have legal and physical access from Prairie View Road. It should be noted that while Prairie View Road is within a dedicated right-of-way, it is not constructed to Flathead County Road and Bridge Standards and the current gravel road is only constructed to the southern border of the proposed subdivision. As noted previously, the internal subdivision road will be required to be constructed to Road and Bridge standards and 69.6% of Prairie View Road outside the subdivision will also need to be improved to Road and Bridge standards between the southern boundary of the subdivision and KM Ranch Road.

~~Primary access to the subdivision is proposed from Whitefish Village Drive, which is a privately maintained road within a 60-foot wide right of way, via Prairie View Road, which is a County maintained road within a 60-foot wide right-of-way. An internal subdivision road is proposed off Prairie View Road to provide access to lots within the subdivision. Approach permits will be required from the Flathead County Road and Bridge Department for the internal subdivision road approach onto Prairie View Road. Whitefish Village Drive is dedicated as a public access easement, as required per Section 4.7.15(e) FCSR. As previously stated, comment received from the County Attorney's Office indicates the applicant is required to obtain an easement or written permission from Whitefish Hills Village to access the Whitefish Village Drive because preliminary plat approval for Whitefish Hills Village did not include a specific condition requiring the subdivision to provide a right of way or easement to adjoining properties. Lot owners within the proposed subdivision will be required to pay a pro-rata share of road maintenance to utilize Whitefish Village Drive.~~

**Finding #16** – The preliminary plat includes adequate provisions for legal and physical access to the subdivision and all lots within it with the imposition of conditions because Prairie View Road is a County maintained road, the developer is required to improve 69.6% of Prairie View Road between the southern boundary of the subdivision and KM Ranch Road, and the proposed internal subdivision road will provide access to each lot within the subdivision.



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~~**Finding #16**—The preliminary plat includes adequate provisions for legal and physical access to the subdivision and all lots within it, with the imposition of conditions, because Whitefish Village Drive would provide access to the subdivision with an easement or written permission from Whitefish Hills Village and a road maintenance mechanism, Prairie View Road would provide access to the proposed subdivision with approved approach permits from the Flathead County Road and Bridge Department, and the proposed internal subdivision road would provide access to each lot.~~

**Conditions of Approval**

21. Prior to final plat approval, the developer shall improve 69.6% of Prairie View Road between KM Ranch Road and the southern termination point of Baker Heights Drive. The improvements shall be certified by a licensed engineer and constructed and paved in accordance with the Flathead County Minimum Standards for Design and Construction. The developer shall also provide a compliant Road User's Agreement of CC&Rs document which requires each property owner to bear his or her pro rata share of maintenance of Baker Heights Drive. [Section 4.7.15(e), FCSR and FOF 3, 16]

~~Prior to final plat approval, the developer shall provide a compliant Road User's Agreement or CC&Rs document which requires each property owner to bear his or her pro rata share for maintenance of Whitefish Village Drive and proof of legal access via Whitefish Village Drive, unless the applicant improves 69.6% of Prairie View Road between KM Ranch Road and the southern termination point of Baker Heights Drive, which shall be certified by a licensed engineer and constructed and paved in accordance with the Flathead County Minimum Standards for Design and Construction.~~

## Erin Bren-Appert

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**From:** Mark Mussman  
**Sent:** Tuesday, September 29, 2020 1:24 PM  
**To:** Elaine Nelson  
**Cc:** Pamela Holmquist; Phil Mitchell; Randy Brodehl; Erin Bren-Appert  
**Subject:** FPP-20-09  
**Attachments:** Baker 80 Memo.docx

Elaine:

The Commissioners are scheduled to review the Baker 80 Subdivision preliminary plat request on October 8. On the advice of our legal team, we needed to make some changes to parts of the staff report and modify some findings and a condition. I have attached a memo that includes those changes for the file. I have included each Commissioner in this email as well.

Thanks,

Mark Mussman, CFM

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